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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q64360

Ryuichi MORISHITA , et al.

Appln. No.: 09/856,374

Group Art Unit: 1632

Confirmation No.: 8301

Examiner: Qian Janice LI

Filed: May 21, 2001

For: GENE THERAPY FOR CEREBROVASCULAR DISORDERS

**INFORMATION DISCLOSURE STATEMENT**  
**UNDER 37 C.F.R. §§ 1.97 and 1.98**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with the duty of disclosure under 37 C.F.R. § 1.56, Applicant hereby notifies the U.S. Patent and Trademark Office of the documents which are listed on the attached PTO/SB/08 A & B (modified) form and/or listed herein and which the Examiner may deem material to patentability of the claims of the above-identified application.

A copy of the corresponding Communication from a Foreign Patent Office is submitted herewith (Chinese Office Action for Chinese Patent Application No. 00802004.3 dated February 4, 2004). The reference WO 95/07709 cited in the Communication is not submitted, because WO 95/07709 was previously submitted in the International Search Report (ISR) and the PTO FORM-1449 listing the ISR references filed May 21, 2001 in the above-identified application.

The present Information Disclosure Statement is being filed after either a Final Office Action, Notice of Allowance, or an action that otherwise closes prosecution in the application



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**STATEMENT UNDER 37 C.F.R. § 1.97(e)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The undersigned hereby states, upon information and belief:

That each item of information contained in the Information Disclosure Statement filed concurrently herewith was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of said Information Disclosure Statement.

Respectfully submitted,

Susan J. Mack  
Registration No. 30,951

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

Date: June 10, 2004

**INFORMATION DISCLOSURE STATEMENT**

**U.S. Appln. No.: 09/8576,374**

(whichever is earlier), but before payment of the Issue Fee, and therefore Applicant is submitting herewith a the fee of \$180.00 to be charged to Deposit Account No. 19-4880 under 37 C.F.R. § 1.17(p), and a Statement Under 37 C.F.R. § 1.97(e).

The submission of the listed documents is not intended as an admission that any such document constitutes prior art against the claims of the present application. Applicant does not waive any right to take any action that would be appropriate to antedate or otherwise remove any listed document as a competent reference against the claims of the present application.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this paper is attached.

Respectfully submitted,



Susan J. Mack  
Registration No. 30,951

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

Date: June 10, 2004

# THE PATENT OFFICE OF THE PEOPLE'S REPUBLIC OF CHINA

Address: 6 Xi Tu Cheng Lu, Haidian, Beijing

Post Code: 100088

|                         |  |   |
|-------------------------|--|---|
| Applicant:              | ANGES MG, INC.                             | Date of Notification:<br>Date: <u>02</u> Month: <u>04</u> Year: <u>2004</u> |
| Attorney:               |  |   |
| Application No.:        | 00802004.3                                 |   |
| Title of the Invention: | GENE THERAPY FOR CEREBROVASCULAR DISORDERS |   |

## Notification of Second Office Action

- ☒ The examiner received the response submitted by the applicant on Feb. 25, 2004 to the 1st Office Action and further examination as to substance has been carried out on the above-identified patent application for invention on this new basis.  
☐ According to the Reexamination Decision made by the Patent Reexamination Board of the Patent Office on \_\_\_\_\_ examination as to substance on the above-identified application has been resumed.
- Further examination as to substance has been carried out based on the documents as specified below:  
☐ The amended application documents attached to the response to the previous Office Action.  
☒ The application documents based on which the previous examination was carried out and the substitution pages attached to the response to the previous Office Action.  
☐ The application documents based on which previous examination was carried out.  
☐ The application documents confirmed by the Reexamination Decision.
- ☐ No further reference documents are cited in this Office Action.  
☒ Below is/are the reference document(s) cited in this Notification:

| No. | Number(s) or Title(s) of Reference(s) | Date of Publication<br>(or the filing date of conflicting application) |
|-----|---------------------------------------|--|
| 1   |                                       | Date: __ Month: __ Year: __  |
| 2   | WO9507709A1                           | Date: <u>23</u> Month: <u>03</u> Year: <u>1995</u>                     |
| 3   |                                       | Date: __ Month: __ Year: __  |
| 4   |                                       | Date: __ Month: __ Year: __  |
| 5   |                                       | Date: __ Month: __ Year: __  |

### 4. Conclusions of the Action:

- ☐ On the Specification:
- ☐ The amendments to the description do not comply with Article 33 of the Patent Law.
  - ☐ The subject matter contained in the application is not patentable under Article 5 of the Patent Law.
  - ☐ The description does not comply with Article 26 paragraph 3 of the Patent Law.
  - ☐ The draft of the description does not comply with Rule 18 of the Implementing Regulations.

☒ On the Claims:

- ☐ The amendments to claims \_\_\_\_\_ do not comply with Article 33 of the Patent Law.
- ☐ Claim(s) \_\_\_\_\_ is/are not patentable under Article 25 of the Patent Law.
- ☐ Claim(s) \_\_\_\_\_ does/do not comply with the definition of inventions prescribed by Rule 2 paragraph 1 of the Implementing Regulations.
- ☒ Claim(s) 1-8 does/do not possess the novelty as required by Article 22 paragraph 2 of the Patent Law.
- ☐ Claim(s) \_\_\_\_\_ does/do not possess the inventiveness as required by Article 22 paragraph 3 of the Patent Law.
- ☐ Claim(s) \_\_\_\_\_ does/do not possess the practical applicability as required by Article 22 paragraph 4 of the Patent Law.
- ☐ Claim(s) \_\_\_\_\_ does/do not comply with Article 26 paragraph 4 of the Patent Law.
- ☒ Claim(s) 7,8 does/do not comply with Article 31 paragraph 1 of the Patent Law.
- ☐ Claim(s) \_\_\_\_\_ does/do not comply with the provisions of Rules 20-23 of the Implementing Regulations.
- ☐ Claim(s) \_\_\_\_\_ does/do not comply with Article 9 of the Patent Law.
- ☐ Claim(s) \_\_\_\_\_ does/do not comply with the provisions of Rule 12 paragraph 1 of the Implementing Regulations.

The detailed explanation of the above conclusions is set forth in the text portion of the Notification.

5. In view of the conclusions set forth above, the Examiner is of the opinion that:

- ☐ The applicant should make amendments to the application documents as directed in the text portion of the Notification.
- ☐ The applicant should expound in the response reasons why the application is patentable and make amendments to the application where there are deficiencies as pointed out in the text portion of the Notification, otherwise, the application will be rejected.
- ☒ The application contains no allowable invention, and therefore, if the applicant fails to submit sufficient reasons to prove that the application does have merits, it will be rejected.
- ☐

6. The followings should be taken into consideration by the applicant in making the response:

- (1) Under Article 37 of the Patent Law, the applicant should respond to the office action within 2 months counting from the date of receipt of the Notification. If, without any justified reason, the time limit is not met, the application shall be deemed to have been withdrawn.
- (2) Any amendments to the application should be in conformity with the provisions of Article 33 of the Patent Law. Substitution pages should be in duplicate and the format of the substitution should be in conformity with the relevant provision contained in "The Examination Guidelines".
- (3) The response to the Notification and/or revision of the application should be mailed to or handed over to the "Reception Division" of the Patent Office, and documents not mailed or handed over to the Reception Divisions have no legal effect.
- (4) Without an appointment, the applicant and/or his agent shall not interview with the Examiner in the Patent Office.

9. This Notification contains a text portion of 2 pages and the following attachments:

- ☒ 1 cited reference(s), totaling 2 pages. ☐

Examination Dept. 9 Examiner: ZHOU JING Seal of the Examination Department

## **INFORMATION DISCLOSURE STATEMENT BY APPLICANT**

*Complete if Known*

|                        |                   |
|------------------------|-------------------|
| Application Number     | 09/856,374        |
| Confirmation Number    | 8301              |
| Filing Date            | May 21, 2001      |
| First Named Inventor   | Ryuichi MORISHITA |
| Art Unit               | 1632              |
| Examiner Name          | Qian Janice LI    |
| Attorney Docket Number | Q64360            |

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|-------|---|----|---|
| Sheet | 1 | of | 1 |
|-------|---|----|---|

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| NON PATENT LITERATURE DOCUMENTS |                       |  |                          |
|---------------------------------|-----------------------|--|--------------------------|
| Examiner Initials*              | Cite No. <sup>1</sup> | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city, and/or country where published. | Translation <sup>6</sup> |
|                                 |                       | Chinese Office Action for Chinese Patent Application No. 00802004.3 dated February 4, 2004   | Yes                      |
|                                 |                       |  |                          |
|                                 |                       |  |                          |
|                                 |                       |  |                          |
|                                 |                       |  |                          |
|                                 |                       |  |                          |

**Date Considered**

<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup>See Kind Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov), MPEP 901.04 or in the comment box of this document. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST. 3). <sup>4</sup>For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup>Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. <sup>6</sup>Applicant is to indicate here if English language Translation is attached.